

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:)	Case No. 23-50312 (AMK)
)	
Helena Catherine Luster,)	Chapter 7
)	
Debtor.)	Judge Alan M. Koschik

**MOTION OF UNITED STATES TRUSTEE PURSUANT TO 11 U.S.C. §§ 727(a)(8)
AND RULE 4004(d) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE
FOR ENTRY OF AN ORDER DENYING DEBTOR'S DISCHARGE**

Now comes Andrew R. Vara, the United States Trustee for Regions 3 & 9 ("United States Trustee"), by and through his undersigned counsel, and respectfully moves this Court for entry of an order pursuant to section 727(a)(8) of title 11 of the United States Code (the "Bankruptcy Code") and Rule 4004(d) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") denying the discharge of Helena Catherine Luster (the "Debtor") in the above-captioned case (the "Motion"). In support of the Motion, the United States Trustee states the following:

Jurisdiction and Venue

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 1334(a) and (b), 28 U.S.C. §§ 157(a) and (b), and 28 U.S.C. § 151, and General Order No. 2012 entered on April 4, 2012, by the United States District Court. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (J).
2. The United States Trustee has standing to file this Motion pursuant to 11 U.S.C. § 307, 11 U.S.C. § 727, and 28 U.S.C. § 586(a)(3).
3. Venue is proper pursuant to 28 U.S.C. § 1409.

Relevant Factual Background

4. On March 9, 2023, (the “Petition Date”), the Debtor filed a voluntary petition (the “Petition”) for relief under chapter 7 of the Bankruptcy Code, which the Debtor signed under penalty of perjury. Docket No. 1.

5. On February 25, 2016, the Debtor filed a previous chapter 7 (“Debtor’s Prior Bankruptcy Case”), which is within the eight (8) years preceding the Petition Date. Case No. 16-50378 (AMK), Docket No. 1. On June 7, 2016, the Court entered an Order of Discharge in the Debtor’s Prior Bankruptcy Case. *Id.* at Docket No. 10.

6. On the Petition, the Debtor fails to list Debtor’s Prior Bankruptcy Case. Case No. 23-50312 (AMK), Docket No. 1 at 3.

Requested Relief

7. Section 727(a)(8) of the Bankruptcy Code provides, in relevant part, that the Court shall deny a discharge of a debtor if a debtor has been granted a discharge under this section in a case commenced within eight years before the date of the filing of the petition. 11 U.S.C. § 727(a)(8).

8. Section 727(a)(8) of the Bankruptcy Code was amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”) to extend the prohibition on successive chapter 7 discharges from six (6) years to eight (8) years for all cases filed after October 17, 2005 (“BAPCPA Effective Date”). The Debtor’s above-captioned case was filed after the BAPCPA Effective Date; therefore, section 727(a)(8) of the Bankruptcy Code as amended by BAPCPA is applicable to this case.

9. The Debtor was granted a discharge in a case commenced within eight years before the Petition Date. Therefore, the Debtor is not entitled to a discharge in this chapter 7 case.

Wherefore, the United States Trustee respectfully requests that the Court (i) enter an order denying the Debtor's discharge pursuant to 11 U.S.C. § 727(a)(8) and Bankruptcy Rule 4004(d); and (ii) grant other such relief that the Court deems appropriate.

Dated: April 10, 2023

Respectfully submitted,

ANDREW R. VARA
UNITED STATES TRUSTEE
REGIONS 3 AND 9

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Certificate of Service

I hereby certify that on April 10, 2023, a true and correct copy of *Motion of United States Trustee Pursuant to 11 U.S.C. § 727(a)(8) and Rule 4004(d) of the Federal Rules of Bankruptcy Procedure for Entry of an Order Denying Debtor's Discharge* was served upon the following in the manner indicated:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

- Kathryn A. Belfance Trustee kb@rlblp.com, oh01@ecfcbis.com
- United States Trustee (Registered address)@usdoj.gov

Via regular United States Mail, postage pre-paid:

FinWise Bank
c/o Becket and Lee LLP
PO Box 3002
Malvern, PA 19355-0702

Helena Catherine Luster
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